

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	122,563		117,053	
CASH FUNDS	99,875		95,385	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	222,438		212,438	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 637 would direct the Department of Environmental Quality (DEQ) to carry out certain actions prior to the adoption of rules and regulations that would impose regulations different than federal regulations or would increase costs on regulated persons or entities. DEQ would be required to identify regulated entities and persons, solicit input from regulated individuals and groups, prepare estimates of the average annual administrative costs to regulated groups, develop an economic impact assessment, develop a justification statement for the proposed regulation, identify data sources consulted, and develop a regulatory flexibility analysis identifying methods to minimize economic impacts. The Governor's Policy Research Office would be required to review DEQ proposals and prepare a fiscal impact statement regarding the proposed rules and regulations.

Because most of the DEQ rules and regulations would apply to the criteria established in LB 637, and the agency has an extensive number of programs requiring the development or revision of rules and regulations, there is no basis to disagree with the agency estimate that compliance with the process established in LB 637 would require increased staffing. The agency estimates that 1 FTE economist and 1 FTE Environmental Quality Program Specialist would be hired to assess the economic, administrative and technical impacts of proposed rule and regulation revisions. Existing agency staff would also provide assistance on an as-needed basis. Costs would be split between General Funds and Cash Funds. It is estimated that additional federal funds would not be available to support the costs of LB 637.

It is estimated that the Governor's Policy Research Office could carry out the provisions of LB 637 using existing staff.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: LB 637	AM:	AGENCY/POLT. SUB: Department of Environmental Quality (084)	
REVIEWED BY: Joe Wilcox	DATE: February 15 th , 2013	PHONE: (402) 471-4178	
COMMENTS: The Department of Environmental Quality (DEQ) estimate of fiscal impact from LB 637 includes the cost of two additional FTE (an Economist and an Environmental Quality Programs Specialist), as well as related Benefits and Operating costs to implement the new requirements identified in the bill. The DEQ estimates appear reasonable.			

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 637	AM:	AGENCY/POLT. SUB: Governor	
REVIEWED BY: Cindy Miserez	DATE: 2/1/2013	PHONE: 402-471-4174	
COMMENTS: I concur with the analysis and conclusions of the Governor's Office.			

Please complete ALL (5) blanks in the first three lines.

2013

LB⁽¹⁾ 637 FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Environmental quality

Prepared by: ⁽³⁾ Tom Lamberson Date Prepared: ⁽⁴⁾ February 4, 2013 Phone: ⁽⁵⁾ (402) 471-4235

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-14</u>		<u>FY 2014-15</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>122,563</u>	<u>0</u>	<u>117,053</u>	<u>0</u>
CASH FUNDS	<u>99,875</u>	<u>0</u>	<u>95,385</u>	<u>0</u>
FEDERAL FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
OTHER FUNDS	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL FUNDS	<u>222,438</u>	<u>0</u>	<u>212,438</u>	<u>0</u>

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB 637 would require the department to undertake the following activities prior to taking amendments to rules and regulations to the Environmental Quality Council for action.

1. Prepare proposal for rulemaking.
2. Identify requirements different than federal regulations, if any.
3. Identify if there will be increased costs to regulated entities or persons.

If yes to 2 or 3:

4. Identify regulated entities and persons impacted by proposal by industry sector.
5. Provide proposal to PRO for preliminary review.
6. Solicit input for regulated persons and entities impacted by proposal.
7. Prepare estimate of average annual reporting, recordkeeping and administrative costs to regulated persons or entities.
8. Estimate total annual economic impact that compliance with the proposal will have on **all** regulated persons or entities, including assumptions made and data used.
9. Prepare a justification statement for any requirement or cost imposed and not expressly required by statute.
10. Identify any data, studies or analyses relied upon.
11. Simultaneously Prepare a Regulatory Flexibility Analysis identifying potential methods to minimize economic impact on regulated persons or entities, including:
 - Establishment of less stringent compliance or reporting requirements.
 - Establishment of less stringent schedules or deadlines for compliance or reporting.
 - Consolidation or simplification of compliance or reporting requirements.
 - Establishment of performance standards instead of design or operational standards.
 - Exemption of regulated entities from some or all requirements or costs imposed.
 - Explanation of reasons for department's preliminary decision not implement an alternative method considered including referencing any data, studies or references relied upon.

Publish Statement—at least 60 days prior to publication of notice of EQC hearing.

Deliver statement to PRO—at least 60 days prior to publication of notice of EQC hearing.

Deliver proposed rule and regulation amendments to PRO—at least 60 days prior to publication of notice of EQC hearing.

Give written notice to PRO of proposed date of adoption of proposed rules and regulations.

Make proposed rule and regulation available to the public--—at least 60 days prior to publication of notice of EQC

hearing.

Consider the PRO fiscal impact statement as part of the rulemaking process.

With the exception of Items 1 through 3 above, virtually all the requirements of LB 637 impose new or increased requirements on the department.

Since the department is required to propose amendments to regulations on a regular basis due to legislative actions or federal delegations, it is anticipated that two FTE would be required to work full time on regulatory analysis. In addition appropriate program staff would be also be assigned to assist with the regulatory analysis and development process.

Based on a review of recent regulatory proposals, the department believes that virtually all future regulatory proposals will fall under the requirements of LB 637.

The department calculated the funding split between general funds and cash funds as a proportion of funding by source in the department's budget request for operations. Since there would be no additional federal funds generated to fund the requirements of LB 637, the department assumed the proportion attributable to Federal Funds would be funded by General Funds.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u>	<u>2014-15</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Economist	1	1	\$45,373	\$45,373
Environmental Quality Programs Specialist	1	1	42,016	42,016
Benefits.....			55,115	55,115
Operating.....			65,934	65,934
Travel.....			4,000	4,000
Capital outlay.....			10,000	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			\$222,438	\$212,438

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2013

LB⁽¹⁾ 637 FISCAL NOTE

State Agency OR Political Subdivision Name: Governor (Agency 07)

Prepared by: ⁽³⁾ Lauren Kintner Date Prepared: ⁽⁴⁾ January 31, 2013 Phone: ⁽⁵⁾ 471-2414

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-14</u>		<u>FY 2014-15</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate: Section 2 of the bill would impose new duties and mandates upon the Governor’s Policy Research Office [“GPRO”] regarding the promulgation of any agency rule or regulation proposed to be implemented by the Nebraska Department of Environmental Quality.

Specifically, the bill would require the GPRO to review any proposed rule or regulation of the Department of Environmental Quality that is estimated to have an economic impact greater than \$500,000 on all regulated entities. The GPRO would be granted permission, but would not be required to, review all other Department of Environmental Quality regulations. The bill would require the GPRO to prepare a written fiscal impact statement concerning the effect that compliance with the Department of Environmental Quality’s proposed regulation would have on the State and the regulated public. The bill sets forth that these requirements would be performed within specific prescribed time periods.

The duties imposed by the bill will require additional staff review and analysis of any proposed Department of Environmental Quality regulations. It does not appear new staff or funds would be required. Current statutes within the Nebraska Administrative Procedure Act -- and the current practice of the Governor’s Policy Research Office – require review of all proposed Department of Environmental Quality regulations. However, certain requirements prescribed in the bill are not presently performed. The GPRO reviewed 17 DEQ regulations in 2011 and 12 DEQ regulations in 2012.

TECHNICAL NOTE: Many of the time lines proposed in LB 637 would conflict with existing legal requirements imposed upon agencies under the existing Nebraska Administrative Procedure Act. It is not clear that either the Department of Environmental Quality or the Governor’s Policy Research Office could comply with regulation time constraints imposed by both LB 637 and the current law.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u>	<u>2014-15</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____